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COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 30th MEETING
(SECOND PART*)

Held at the Palais des Nations, Geneva,
on Monday, 17 February 1992, at 3 p.m.

Chairman: Mr. SOLT (Hungary)

later: Mr. WALKER (Australia)

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* The summary record of the first part of the meeting appears as document E/CN.4/1992/SR.30.

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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION (agenda item 11) (continued)

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(E/CN.4/1992/21 and Add.1; E/CN.4/1992/22, 23 and 24; E/CN.4/1992/43 and Add.1 and 2; E/CN.4/1992/58; E/CN.4/1992/NGO/1 and 21)

1. Mr. BARAMPAMA (Centre Europe Tiers Monde) drew attention to the situation of human rights in Burundi, and in particular to the problem of refugees from that country. Ethnic tension there had led to periodic massacres of many thousands of people, mostly of the Hutu tribe, and the flight of many thousands of others from the country. UNHCR had registered more than 240,000 Burundi refugees up to June 1991, and disturbances and repression at the end of that year had led to many more deaths and the flight of many thousands of people to Zaire and Rwanda.

2. The CHAIRMAN pointed out that agenda item 11 was not an item under which the situation and practices in particular countries could appropriately be discussed. The speaker might wish to comment on the situation in Burundi under agenda item 12. He appealed to all speakers under agenda item 11 to restrict their statements to the topics set forth under that item.

3. Ms. NUÑEZ (Commission for the Defence of Human Rights in Central America) said that her organization wished to express its concern at the limitations placed on national human rights institutions in the fulfilment of their objectives. It was particularly preoccupied by the situation in Guatemala and El Salvador, where such institutions had so far been unable to put an end to daily serious violations of human rights. In the case of Guatemala, such limitations had prevented the bodies established on the recommendation of Mr. Tomuschat from taking effective action. A broad movement for the defence of human rights in Guatemala and El Salvador had been developing for more than a decade. In paragraph 23 of his report (E/CN.4/1992/5) Mr. Tomuschat had drawn attention to the many human rights organizations working in Guatemala. Such groups, which had come into being in response to the wishes of the victims of human rights violations, had gradually made limited but important breaks in the pattern of repression. Mr. Tomuschat had observed that the views of the organizations concerned were not always to the liking of their Government. Members of the State apparatus therefore regarded them on the same footing as auxiliary groups that were helping the guerrillas, which, in Guatemala, made them liable to the death penalty.

4. The CHAIRMAN observed that the speaker had strayed into a topic that could more appropriately be addressed under item 12. Her comments should be confined to the question of national institutions for the promotion and protection of human rights.

5. Ms. NUÑEZ (Commission for the Defence of Human Rights in Central America) pointed out that agenda item 11 did not relate only to national institutions for the promotion and protection of human rights but also, under section (a), to alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms, to which she also wished to refer. She would confine her comments to matters relating solely to the programme and methods of work of the Commission.

6. Her Commission was seriously concerned about the treatment meted out to members of Guatemalan human rights organizations, who were kept under constant surveillance by military personnel. They were attacked not only within their country but outside, and even within the Commission on Human Rights, where false statements had been made against them. In paragraph 27 of his report, Mr. Tomuschat had stated that the constant criticism expressed by human rights organizations should be accepted as an opportunity to revise activities and future strategies and that organizations that were working to that end should be respected and encouraged. Non-governmental organizations unfortunately had no right of reply and were unable to counter the unfounded allegations made against them in order to undermine and disparage their work. She urged the Commission to place on its agenda an item on mechanisms for strengthening the work of non-governmental human rights organizations, whose contributions should be taken into account by the Commission and should receive every support from the United Nations Centre for Human Rights and all other bodies concerned with the promotion and protection of human rights.

7. The CHAIRMAN said that he wished once again to appeal to speakers to adhere closely to the topics covered by agenda item 11.

8. Mr. MOLINA (World University Service) said that his organization had, for the past four years, presented statements under agenda item 11 on behalf of the NGO Coalition against Impunity in order to stimulate awareness of the question of impunity granted to violators of human rights. Such impunity seriously impeded the promotion of human rights in countries in which serious violations occurred. His organization welcomed the appointment of Mr. Joinet and Mr. Guissé to carry out a study on impunity for analysis by the Sub-Commission. It hoped the two experts would examine all aspects, including that of the self-amnesty laws promulgated by the military in some Latin American countries, and would take NGO contributions into consideration. He would like to quote from the work of two World University Service scholars on the meaning of impunity.

9. The CHAIRMAN said that the speaker was making use of agenda item 11 to present a statement that should come under a more appropriate agenda item.

10. Mr. MOLINA (World University Service) said that the item had, over the past four years, been used as a framework for discussing the issue of impunity as an impediment to the promotion of human rights, and he wished to illustrate its effects by referring to the various elements of impunity in many countries, and not merely in specific cases.

11. The CHAIRMAN reminded the speaker that a number of previous speakers had been interrupted because they had strayed from the agenda item under consideration. The question of impunity did not come within the Commission's work, but there were alternative means of raising it within the United Nations system. Many delegations had raised points of order on statements that were outside the agenda item under discussion, and he must respect their concern. He asked the representative of the World University Service whether he had any comments to make under agenda item 11.

12. Mr. MOLINA (World University Service) said that he had no further issues to raise but he did not share the view that the terrible phenomenon of impunity was not a relevant issue. He proposed that an item on the subject should be placed on the Commission's agenda.

13. The CHAIRMAN said that he would like the speaker's views to be placed before the Commission in an appropriate way. In the absence of an agenda item on the subject, they might be included in any text he wished to circulate following his statement under agenda item 12.

14. Mr. TOTSUBA (International Educational Development, Inc.) recalled that, in resolution 1991/29, the Commission had requested all rapporteurs and working groups to continue paying particular attention to acts of violence committed by armed groups that had an adverse effect on the enjoyment of human rights and had requested the Secretary-General to collect relevant information. The issue was included under item 11 of the annotated agenda (E/CN.4/1992/1/Add.1, para. 87). In that connection, he drew attention to the situation of hostages held by the Sudanese People's Liberation Movement (SPLM) and its army (SPLA). A number of Ugandan soldiers who had sought refuge in the Sudan had been abducted by the SPLA and forcibly conscripted or held in detention. Those who had refused to join had been subjected to extremely harsh treatment and held hostage. He suggested that the Commission should prepare an annual list of persons held hostage and of those holding them and should ask the holding powers to respond to inquiries on the subject. Governments in contact with suspected holding powers should be requested to conduct inquiries and report on the outcome, and resolutions should be adopted on particular situations.

15. There were certain other situations, particularly gross violations that had occurred previously, to which there was no easy solution, and which required the alternative approaches contemplated under agenda item 11 (a). One example was the situation of Korean girls and women abducted by Japanese forces during the Second World War for use as sex slaves. Because of the lack of access to domestic legal systems, the failure of such systems to receive such cases, and political pressure by the States involved, the victims had received no remedy. In view of the gravity of that type of offence, which had been identified as a war crime under international humanitarian law and as a crime against humanity in peace time, there should be some international forum to which cases should be brought and in which the parties could seek mediation and settlement.

16. There had been an investigation into the sexual enslavement of Korean girls and women and the enslavement of other Koreans by the Japanese Imperial Army, and the Japanese Government had not denied allegations of

the enslavement of 1.5 million of them. The former Vice-Chairman of the Japanese House of Representatives had alleged that 57.9 per cent, including 143,000 young Korean girls and women, had died in enslavement. His organization regretted that the Commission's current mandate and the action provided for in the resolutions referred to in paragraphs 83, 85 and 86 of the annotated agenda were not enough to solve such problems.

17. In January 1992 the Government of Japan had made an apology to the Korean people but had offered no compensation or other effective remedy to the victims as required by article 8 of the Universal Declaration of Human Rights. Japanese arguments that the situation had been resolved by a 1985 agreement between South Korea and Japan, that the burden of proof did not lie on Japan and that it would await a judgement issued by a Tokyo district court were an unconvincing case for inaction.

18. The international community could usefully participate in seeking solutions to such violations. The Commission might establish a mediation panel to suggest remedies, including compensation for victims. The Commission on Truth established in El Salvador under United Nations auspices might be used as a model. The Sub-Commission's Rapporteur on compensation might also be requested to study the situation and recommend remedies.

19. Mr. Solt (Hungary) resumed the Chair.

20. Mr. ABRAM (United States of America) said that he wished to refer to the difficult but important questions of mass exodus and the fundamental structure of the Commission. Heart-rending scenes of men, women and children fleeing the many tyrannies in the world provided terrible evidence of the consequences of forced movements of people. When regimes violated fundamental human rights, the resultant forced massive migration affected all societies, economies and educational and political systems. An estimated 17 million refugees and displaced persons had sought refuge in neighbouring countries which themselves were often exceedingly poor, and about 20 million had been displaced within their own countries. That was an immense tragedy with grave consequences.

21. The world was increasingly becoming one world, with modern communications and transport speeding people through time zones and across borders, and the problem of mass exodus and displaced persons was becoming an increasingly urgent one that must be tackled by the United Nations system as a whole. A unified United Nations system demanded a unified response. The High Commissioner for Refugees, who played an important role in providing humanitarian assistance and protection to refugees and in helping to solve refugee situations, could not alone tackle the entire problem of movements of people. A unitary United Nations must consider the causes of refugee flows as well as providing protection. UNDP had a role to play in preventing mass outflows and reintegrating returnees, and other United Nations bodies must deal with the many other social, cultural, political and economic factors that produced forced movements. The United Nations had done very little to attack that grave and threatening problem at its source.

22. The Commission had a special mandate for dealing with the human rights issues involved in mass population movements before they occurred. Once they had occurred, it should seek to remedy them so that people could return home

in safety and dignity. It had been recognized in many United Nations studies that human rights violations were a major cause of forced movements of people, but such studies could serve little purpose if their conclusions were ignored. Human rights violations were a major cause of mass movements of people with a well-founded fear of persecution, which was a fundamental cause of refugee creation. Their less obvious role in contributing to other forced mass exoduses was no less important. The immediate cause of most mass exoduses in recent years had been armed conflict, and particularly civil war, many cases of which resulted from deep-rooted ethnic and political divisions caused by resentment at mass human rights violations. Exile, with its deprivation and degradation, fell disproportionately (80 per cent) on women and children. If the United Nations Decade for Women and the World Summit for Children were to mean anything, the protection of those most vulnerable groups should receive particular attention.

23. He asked how many of the civil wars and armed conflicts generating mass exoduses could have been avoided if broad respect for human rights had been the norm in the past; what greater cause of civil strife there could be than human rights abuses; and what real hope there was of solving the problem of mass exoduses if such abuses continued unchallenged by the Commission. The answers appeared obvious. Extreme poverty was a further cause, but there was an inextricable and demonstrable connection between human rights and economic progress, and individual freedoms were the key to economic development. Western Europe and North America were not the only regions where the protection of individual rights and fundamental freedoms coexisted with advanced development; there were increasing examples in Latin America, Asia and Africa. Botswana, whose per capita gross domestic product had been $69 on attaining its independence in 1966, had now, as a two-party democratic country under the rule of law, a per capita income of $1,500, and there had been no mass exodus from that country.

24. It was the poor neighbouring countries of Africa, Asia and Latin America that had to bear the major share of responsibility for caring for thousands, and sometimes millions, of refugees and displaced persons. The Commission should hold accountable those Governments whose human rights records had resulted in the flight of their citizens and should demand that States should respect fundamental rights so that their citizens were not compelled to flee. Those whose human rights policies could lead to mass outflows should be urged to correct human rights abuses before such outflows occurred. The United Nations High Commissioner for Refugees should be requested to present an annual statement to the Commission on the countries from which the largest number of persons had fled. If the Commission's voice on the causes of the problem could not be heard, its purpose might be questioned. It could be asked why States whose human rights behaviour produced mass exoduses had never been subjected either to the public or the confidential procedure. It was the Commission's duty to deal comprehensively with the problem of mass exoduses in human rights terms.

25. At an earlier meeting of the Commission the Vice-President of the United States had stressed that the Commission should not count among its members States that were themselves gross violators of human rights and that the highest possible standards of fairness, decency and respect for individual dignity must be set. His delegation was not challenging the sovereignty of

any State or the universality of the United Nations system. It was not questioning the accreditation of any State and was not opposed to the principle of diversity in the Commission. Nor did it challenge the traditional rotation system if responsibly applied. What it was challenging was the abuse of those principles and the damage done to the Commission's reputation and effectiveness. On the analogy of the relationship specified in the Charter of the United Nations between membership of the Security Council and a member's activities, namely that Member States should be dedicated to the maintenance of international peace and security, members of the Commission should be devoted to the pursuit of human rights. Every State had a special responsibility to uphold the Commission's reputation, and the Economic and Social Council had a duty to protect the Commission's credibility by voting in Member States with good human rights records, and certainly not those under investigation by the Commission. That was not an unreasonable requirement since all United Nations members were pledged to the principles of the Universal Declaration of Human Rights, and the Commission was the principal organ responsible for disseminating human rights culture throughout the world. If human rights organs were to have the maximum impact, the Sub-Commission's Bureau in 1989 could not have included nationals of Ethiopia, Cuba or Ceaucescu's Romania, which the Swiss press had named the "Troika". His delegation was not calling for any formal Commission action affecting the accreditation of any State represented in it, but it would be conferring with other States concerning the possibilities for future reform.

26. He had spoken frankly because his delegation took the Commission's work extremely seriously and was dedicated to the promotion of the values under its care.

27. Mr. HELLER (Mexico) pointed out that, in a decade of accelerated change, the proper path towards a truly universal culture of human rights - in general and in specific terms - lay through heightened awareness and the creation of institutions at the national level. Reference to the basic instruments as well as to the groundwork done by pioneering institutions such as that of the ombudsman, together with the international exchange of national experience (as at the meeting organized by the French Government in 1991), were important keys to progress in that direction.

28. Determined to reinforce democracy and preserve the rule of law, the Government of Mexico was vigilant in its defence of the basic human rights of all who lived in or passed through the country, and of its nationals abroad; those rights were enshrined in Mexico's Constitution and in its legislation. Every effort was made to ensure that transgressors did not go unpunished. Moreover, in response to changing political, economic and social circumstances, a process of legal reform was under way with the aim of setting the protection and promotion of human rights on an even firmer institutional basis.

29. The Commission had already been informed of the creation in June 1990 of a National Commission for Human Rights (CNDH). That non-political body, with its distinguished membership, had - in its first 20 months of existence - clearly demonstrated its moral worth, and had done much to improve relations between the public and the authorities; in particular, its frontal assault on impunity had produced positive and visible results. More generally, the CNDH - which had recently been granted constitutional status - was engaged

in a broad programme of monitoring and promotional activities, following up complaints and suggesting actions for improved compliance with the international instruments to which Mexico was party. The overall objective was to ensure that progress in the field of human rights would be irreversible.

30. In addition, a new law to punish torture had recently been enacted, the Federal Code of Criminal Procedure was being reformed, and stiffer sanctions for infringements of the law were now enforceable.

31. In sum, Mexico had embarked in a determined fashion on what all national institutions committed to the protection and extension of their citizen's rights acknowledged to be an arduous and fundamental task.

32. Mr. TOTH (Hungary) addressed the "grey area" occupied by internally displaced persons, who could for the most part be described as refugees - for a variety of reasons - in their own countries, but who could also spill over in their distress to neighbouring States and regions, bringing grave and incredibly complex problems and uncertainties with them.

33. Estimated to amount to some 20-24 million in all, mostly in Africa and Asia although Europe was by no means immune, internally displaced persons accounted for more than 10 per cent of the population in certain countries. Women and children predominated, making the group a very vulnerable one, often a helpless victim of violations of basic human rights. Enhanced protection and, more importantly, prevention were urgently called for. That included comprehensive preventive diplomacy, which might make use of the experience of mediation and good offices accumulated in certain international organizations, notably in the United Nations system. The conceptual and institutional links between the early-warning capabilities of the United Nations and the need to prevent massive internal displacement of the population should also be established. Such preventive diplomacy should not amount to public scrutiny of a State's performance, but should take the form of a discreet approach to situations likely to produce the phenomenon, together with the sensitization of the interested parties, so that emerging problems, including those of human rights, might be addressed in a timely fashion.

34. The Secretary-General's report on internally displaced persons contained a fair and comprehensive analysis of the basic situations and could serve as a starting point for further deliberations by a working group of the Commission. Such a group would undoubtedly be confronted with a very complex task; for that reason, Member States, in company with specialized international and humanitarian organizations, should assist it in formulating practical recommendations.

35. The conclusion of the cold war had created a more favourable political climate, in which humanitarian issues were accorded higher priority. He sincerely hoped that, as a result of present initiatives, the Commission on Human Rights would be able to set up the appropriate framework for deliberations on the issue of internally displaced persons; he pledged the contribution of the Hungarian Government to that undertaking.

36. Mr. OSMANY (Bangladesh) spoke of the increasing proliferation and fragmentation of human rights issues, reflected in the very large number of United Nations-sponsored instruments and standards; and called for a step-by-step approach, based on redefined priorities.

37. The further promotion and encouragement of human rights and fundamental freedoms must begin with respect for democratic government, the rule of law, the independence of the judiciary and freedom of the press. While the Commission's attention might be focused more sharply on those matters, care should be taken to avoid partial and selective views which could divert attention from more pressing and fundamental concerns. What was called for was a holistic approach encompassing the economic, social, cultural, moral, legal and political dimensions: the Commission should concentrate more effectively on the composite and comprehensive aspects of human rights.

38. National, regional and global efforts in the domain of human rights must be better coordinated and goal-oriented. Pointing out that intense politicization of issues could substantially undermine the Commission's credibility and effectiveness, he called for an approach based on objectivity and transparency, adding that since the concept of voluntary cooperation was the very basis of the participation of States in the activities of the Commission, awareness of and responsiveness to the sovereign sensitivities of States were very important. Excessively academic and legalistic attitudes were unlikely to produce positive results, and, more importantly, efforts to discredit Member States, unrelated to the procedure laid down in Economic and Social Council resolution 1503 (XLVIII), could prove counter-productive.

39. The participation of non-governmental organizations should be more purposeful and constructive. Unwarranted criticism by private groups of individuals with little or no accountability or responsibility could distort the work of the Commission. Of course, most non-governmental organizations made valuable contributions to the human rights debate, but they did not all display the same competence, dedication or transparency. In future, it might be well for the Commission to include in its agenda an item on the role of NGOs in human rights; the Centre for Human Rights might be requested to prepare a suitable paper on that topic for the next session.

40. Observing that NGO participation in the Commission was more or less monopolized by bodies based in the developed countries, whose perception, priorities and expertise did not always do justice to human rights situations in the developing world, he suggested that NGOs based in the developing countries should be encouraged and helped to participate in sessions of the Commission. Lastly, NGOs in the developed countries might consider the possibility of recruiting personnel from the developing countries or diverting certain resources to their counterparts there.

41. Finally, the advisory and technical assistance programme of the Centre for Human Rights must be further strengthened and broadened. There was also a perceived need to widen its coordinating role within the United Nations system. Such an expansion of responsibilities implied an enlargement of its resources, both human and financial.

42. Mr. LINDGREN (Brazil) remarked that the debate provided an occasion for self-evaluation and self-criticism that the Commission could not afford to miss, especially in the light of the momentous changes in the international situation, which had produced an increased awareness in many countries that the proper functioning of national institutions was essential for the promotion and protection of human rights.

43. His delegation had already stressed on earlier occasions that one of the greatest merits of the framers of the Universal Declaration of Human Rights had been to have realized and clearly stated that human rights must be protected by the rule of law. For the rule of law to be a reality, it was not enough for the Government of a given country simply to refrain from acts inconsistent with respect for human rights and fundamental freedoms. The authorities of each and every country must actively promote and ensure the functioning of those institutions, whose work was essential for guaranteeing human rights. Violators must be punished, and persons must be protected, sometimes individually, from possible abuses. That required an efficient, independent and competent system for the administration of justice, together with an effective and well-equipped enforcement structure, organized and trained on the basis of the highest standards of respect for the prerogatives of the individual.

44. Engaged in the transition to democracy, many countries in Latin America, Africa, Asia and not least in Eastern Europe were experiencing the practical difficulties associated with such an effort. The United Nations, and more particularly the Commission on Human Rights and the Centre for Human Rights, must live up to the expectations vested in them, and be prepared to respond adequately to the needs of those countries. Although positive steps had already been taken to meet the challenge of strengthening the rule of law as a crucial factor in the protection of human rights, much more effective and substantial assistance was called for. Indeed, the time had come actively to consider and implement, in a prejudice-free atmosphere, various forms of assistance, including technical and financial assistance to operational projects that could produce significant improvements in the promotion and protection of human rights. As the Brazilian Secretary-General for Foreign Relations had already announced, his delegation was circulating a draft resolution on that issue.

45. The Brazilian delegation further considered that the forthcoming World Conference on Human Rights constituted a most appropriate opportunity to take informed decisions that could render the work of the United Nations in the field of human rights much more effective and result-oriented than in the past. It was important for the Commission on Human Rights to make a strong recommendation to the Preparatory Committee of the World Conference in that regard.

46. Concerning the question of mechanisms and procedures that would enable the Commission on Human Rights to respond more promptly to situations involving serious and massive violations of human rights, he expressed appreciation of the initiative by the delegation of Austria in raising the question, which certainly merited wide attention. The issue was a controversial one, and it might be well to begin by outlining a few essential principles and then subjecting the proposed mechanisms to the test of the

following three criteria: firstly, that of promptness (the mechanism for response must be manageable and flexible so as to allow for a rapid response, in the absence of which already existing procedures would suffice); secondly, fairness and objectivity (new mechanisms must, in particular, be constructed in such a way as never to lend themselves to politically motivated manipulation); and finally, focus (it was essential to strike an adequate balance between the functioning of national institutions responsible for ensuring the protection of human rights and the functioning of international mechanisms, which could be no substitute for the national institutions which must bear the primary responsibility for the observance of human rights).

47. In conclusion, he commended that the proposals by the delegation of Austria as a very good basis for the Commission's further deliberations. The Brazilian delegation, for its part, had already joined in the informal discussions on the proposal, and looked forward to making a further positive contribution to an undertaking which, it was hoped, would result in a more effective and stronger United Nations in the field of human rights.

48. Mr. TAN Songqiu (China) observed that the issue of alternative approaches and ways and means for promoting the enjoyment of human rights had been on the agenda of the Commission for many years, and had given rise to a great deal of debate. In his delegation's view, there was only one basic criterion for determining whether certain approaches and modalities were proper for the promotion of human rights and fundamental freedoms: conformity with the purposes and principles of the Charter of the United Nations, as clearly set forth in article 29 of the Universal Declaration of Human Rights. Looking back over the past 40 years, it was not difficult to demonstrate that when that criterion was met, progress was made, whilst departure from those principles led to trouble. As many speakers had already remarked, the practice of double standards, the politicization of human rights and interference under the pretext of human rights in matters which fell within the domestic jurisdiction of a country and had nothing to do with human rights were regrettably on the increase. Certain people were currently contending that "human rights have no boundaries" in an attempt to impose on others. That was, he submitted, an inappropriate and indeed counter-productive attitude, because it negated the basic principle of respect.

49. Against that background, his delegation wished to set before the Commission, as it endeavoured to improve its work, a number of considerations. First, and as he had already said, adherence to the purposes and principles of the Charter of the United Nations, coupled with recognition of the independence and sovereignty of each country, were prerequisites for the enjoyment of human rights. There could be no enjoyment of the various human rights and fundamental freedoms for countries or people once they were subjected to foreign aggression, occupation or domination, or to the exploitation and oppression that resulted from racism and colonialism. Wars and military conflicts posed the greatest threat to human rights; indeed, the wars of the twentieth century have created unprecedented havoc, both for the sovereignty of States and for the dignity of the individual. Thus, there could be no peace in the world, nor any guarantee of fundamental universal rights, without the safeguarding of international peace and security, and opposition to any kind of aggression or expansion, and the cessation of power politics which trampled on the sovereignty and territorial integrity of other countries.

As was clear from the very beginning of the preamble to the Charter, the maintenance of international peace and security was the foremost objective of the United Nations. Unhappily, the great changes which had taken place in the international arena had not yet brought about genuine peace or stability; indeed, many parts of the world were witnessing the resurgence of the forces of racism, and a heightening of tension among countries, with chaos as a result of the imposition of certain political patterns. In his delegation's view, the Commission on Human Rights should act in even stricter compliance with the purposes of the Charter, addressing itself as a matter of priority and in accordance with General Assembly resolution 32/130 to the matter of systematic, massive and flagrant violations of human rights resulting from racism, racial discrimination, hegemony, foreign aggression, occupation, interference and domination.

50. Secondly, it had long been universally accepted that the civil and political rights of the people and their economic, social and cultural rights were supplementary and indivisible. That principle was of even greater practical significance currently, with the global gap between rich and poor widening, and with one third of the population of the developing countries living below the poverty line. So long as an unjust and unreasonable political and economic order prevailed, there would be serious impediments to the enjoyment of human rights and fundamental freedoms. Joint efforts should be made by the international community to rectify problems such as the debt burden, the outflow of financial resources, falling commodity prices and the brain drain. However, the main responsibility lay with the developed countries, a fact that was still not universally recognized. Worse still, political and economic pressure had been exerted on the developing countries, while so-called human rights records had been used as a bargaining counter in the processes of provision of economic assistance and trade exchanges. That was no way to promote or protect human rights, but simply a means of exporting values, and a politicization of those rights. Due attention should be paid by the Commission to such issues, so as to affirm the importance of development to the enjoyment of human rights. It should urge the developed countries to assume responsibility for ensuring that effective measures were taken to eliminate injustices in the international political and economic order. The Commission could not contribute to the universal realization of human rights and fundamental freedoms if undue emphasis was laid on the civil and political rights of individuals, at the expense of developing countries' right to development.

51. Thirdly, with regard to the question of protecting human rights, the Charter clearly stipulated that the United Nations should achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion. In other words, its fundamental approach was to promote international cooperation, not to turn the human rights bodies into a forum used by a small number of countries for making injudicious remarks about the economic, political and social systems of other Member States. Those who talked loudly about the need to respect the humanitarian nature of human rights and to avoid politicizing them were often the first to take the opportunity to launch ideological debates. The impression was that, while the old cold war had passed, a new cold war was just beginning. The Commission must urge all countries to respect the choices made by the peoples of individual countries.

52. Mr. PETERS (Netherlands) said that protection and promotion of human rights were among the activities most closely associated in the public mind with the work of the United Nations; and that countless victims of human rights violations turned to the Organization for protection and assistance. Nevertheless, a system able to anticipate, prevent and halt violations and to promote remedy and compensation where possible had still to be put in place. There was thus no justification for complacency, or for running down the existing system. Yet that was precisely what appeared to be happening, with an ever-increasing workload matched by cut-backs in staff.

53. Documentation had grown by 44 per cent, the number of meetings serviced by 84 per cent, servicing of treaty bodies by 50 per cent, mandates regarding special procedures by 150 per cent, and missions abroad by 500 per cent. That increase in workload was attributable, not to the Centre for Human Rights creating extra work for itself by too broad an interpretation of existing mandates, but to three factors: administrative decisions, political decisions, and external, autonomous factors. While the administrative decisions could not be identified, the political decisions were normally taken by consensus, or by a clear majority, and had to be implemented. Adequate funds must thus be allocated by the financial organs, to secure execution of the tasks deemed to be important by the policy-making organs. As for the autonomous factors, the most relevant was clearly the number of reported human rights violations. Another was adherence to instruments: more States parties meant more national reports, and possibly more individual complaints. All such factors must be taken into account when deciding on resources.

54. A very small percentage of the United Nations budget was currently allocated to human rights activities, a situation that would not change in the 1992-1993 budget. Fortunately, awareness of the problem of insufficient resources was growing, and the consensus resolutions on the issue introduced by the delegation of Greece had attracted many sponsors from all regional groups. The Commission should build on that common ground.

55. Its priorities should relate particularly to four areas: the treaty monitoring bodies, the special procedures, advisory services, and the integration of human rights and development. Less attention would thus have to be accorded to other activities, such as seminars, which should only be held as part of a strategy regarding a subject or a region. Furthermore, little was to be gained by re-expressing world problems such as fraud and corruption, peace, and the living conditions of youth, in terms of human rights concepts. The reports on "adverse consequences", too, had now become an outdated exercise. There was also a need to be more restrictive in standard-setting.

56. The Commission's agenda should be made more logical and coherent, with country situations discussed only under the appropriate agenda item. Thus, for example, inclusion of violations under the advisory services item might discourage countries from seeking such advice. Nor should the fact that a Government was cooperating with the United Nations be an argument for not dealing with that country situation under the item "Question of the violation of human rights", since such cooperation was an obligation set forth in Article 56 of the Charter.

57. Finalization of two new instruments would shortly create room for new standard-setting in two working groups. In his delegation's view, the outgoing working groups should not automatically be replaced, although new, challenging subjects, such as the Sub-Commission's work on a draft declaration on indigenous people, might necessitate the use of a working group at some later date. Some of the economies proposed by the Advisory Committee on Administrative and Budgetary Questions might also prove to be feasible. However, his delegation did not favour the proposed conversion of a few temporary staff positions to established posts, a measure which would add no manpower and which would thus fail to address the fundamental question of resources. General Assembly resolution 46/118 had requested the Secretary-General to ensure that sufficient resources were accorded to the Centre to enable it to carry out all its mandates. His delegation suggested that the Secretary-General should be asked to provide additional human resources in the context of the review of the current biennium.

58. There was a need for improved management and control of the use made of available financial resources, and of the best use of human resources. However, a further reorganization of the Centre would be too taxing an exercise. The best means of enhancing the effectiveness of the Centre's work would be to ensure better internal and external cooperation and coordination. Thus, for example, a rapporteur could identify the need for advisory services; projects could then be defined in a dialogue between the Government concerned and the Centre, and perhaps be brought within the UNDP targets for the country or be financed from the Voluntary Fund; inside knowledge and outside consultants could be used to implement such a project; a parallel DPI strategy could be devised; and the country could then describe results in its reports to the treaty monitoring bodies.

59. Turning to future action, he said that his Government had always regarded fact-finding as an important phase in the process of reaching a solution. In 1967 the General Assembly had adopted a resolution based on an initiative of the Netherlands delegation, establishing a list of experts whose services could be called upon for fact-finding. Regarding the follow-up to that resolution, he could only say that the list was still in existence. At its 1591 session the General Assembly had adopted the far more elaborate resolution 46/59 on the same subject. Its language looked well-balanced; however, it remained to be seen how practice would develop.

60. Forms of urgent action also needed to be developed. It was surely no longer acceptable that the central United Nations human rights organ should be in a position to act during only six weeks of each year. Economic and Social Council resolution 1990/48 had explicitly mentioned the possibility of inter-sessional meetings, an idea that had its origins in resolution 1979/36. Interestingly, both fact-finding and inter-sessional activities featured in the Austrian proposal announced in general terms by the Austrian Minister for Foreign Affairs, Mr. Mock, at the 1991 session of the General Assembly, and explained more fully by the Secretary-General of the Austrian Ministry of Foreign Affairs, Mr. Klestil, during the Commission's current session. Such a proposal would fit in well with a forward-looking human rights agenda.

61. Mr. STEEL (United Kingdom of Great Britain and Northern Ireland) said that the Commission on Human Rights needed to adapt to new situations. That might mean altering its methods of work, considering new subjects, or according higher priority to existing subjects. Two years previously, the Commission had discussed improvements to its methods of work. Since then, discussion on reform had continued on a case-by-case basis. That process of considering each reform on its own intrinsic merits was probably the right approach. Incremental reform, moving forward step by step whenever the opportunity presented itself, was likely to provide the surest foundation for the Commission's future work.

62. Turning to the question of the establishment of an emergency mechanism to deal effectively with urgent situations arising when the Commission was not in session, he said that the fact that the Commission was effectively silenced for ten and a half months of the year seemed to his delegation indefensible. Furthermore, the fact that that silence was self-imposed called the Commission's very credibility into question. His delegation was thus grateful to the Austrian delegation for coming forward with an innovative proposal designed to correct that deficiency, albeit one requiring careful consideration. His delegation, like many others, had passed on some specific suggestions for consideration in the wide consultation process that was now under way with the Austrian delegation. For its own part, his delegation was convinced that the time was now ripe for the Commission to take the matter forward. It would of course be necessary to ensure, on the one hand, that the mechanism was triggered only in situations of an appropriate gravity or urgency, and, on the other hand, to avoid fettering the mechanism with unnecessary conditions which might frustrate recourse to it in practice.

63. The previous year, his delegation had been a co-sponsor of resolution 1991/25 on internally displaced persons. The question of assistance to displaced persons was clearly an important one. However, the concern of the Commission should principally be those situations where the displacement had resulted from a violation of human rights. Individuals fleeing persecution and crossing an international border could usually avail themselves of protection through established asylum procedures. Those, however, who were forced to leave their homes but who remained in their own countries might also be under threat, but at present lacked any effective means of protection. In the past year alone, many hundreds of thousands of people had been involuntarily displaced, often as the result of deliberate government action. His delegation believed that the question of the internally displaced should continue to be considered by the Commission, which had its own role to play in identifying situations in which displacement resulted from human rights violations and in working towards their resolution.

64. One category of persons whose circumstances made them particularly vulnerable to discrimination was those persons affected, directly or indirectly, by HIV or AIDS. It was no part of the Commission's task to duplicate or interfere with the work of the expert bodies and non-governmental organizations in that field. But it had a right, and indeed a duty, to concern itself where there was a threat to the exercise and full enjoyment of human rights. And it was a fact that those affected by HIV or AIDS, their families and associates or people presumed to be at risk of infection often found themselves the subject of blatant discrimination in their daily lives,

with restrictions placed on where they could live, travel and work. Besides being wrong in itself, such discrimination also hampered effective control and health programmes, in so far as it forced the disease underground. The HIV/AIDS virus had of course been unknown at the time of the drafting of the major human rights instruments. Yet the scope of the obligations imposed by those instruments was sufficiently broad to cover the examples of discrimination to which he had referred. His delegation thus believed that, when examining States parties' compliance with those instruments, the treaty monitoring bodies should pay particular attention to evidence of such discrimination. It looked forward to the early completion of the report on the issue by the Special Rapporteur, Mr. Luis Varela Quirós, which would provide the Commission with a further opportunity to discuss the question.

65. Mr. SENE (Senegal) said that new instruments had been adopted in his country to strengthen respect for human rights and fundamental freedoms. Those instruments were based on a long tradition of tolerance and deep awareness of the importance of the human person, which were reflected in the Constitution. The Constitution ensured the separation of powers and guaranteed the independence of the judiciary. The Supreme Court monitored the constitutionality of legislation and protected the public through redress for the abuse of power.

66. At the political level, pluralism was the rule, and the same was true with regard to the exercise of trade union freedoms. Freedom of the press was guaranteed, and the Senegalese press was known for its independence and critical sense.

67. Furthermore, associations for the promotion and protection of human rights played a dynamic role in Senegal. That was the case with the Senegalese Human Rights Committee, which was composed of eminent specialists. It was also true with regard to the International Federation of Human Rights which, through its national committee, had recently held a constructive meeting in Dakar.

68. Senegal's central concern was not solely to work for the advent of democracy but to endeavour to perfect the positive achievements of an institutional system which could always be improved. In that regard, Senegal had recently established two new institutions: the Office of Mediator of the Republic and the High Council on Radio and Television Broadcasting. The primary mission of the Mediator was to protect the rights of individuals and bodies corporate considering themselves to have been injured not only by a public administration but also by any organ working on behalf of the public service. To that end, the Mediator received written complaints against those bodies. If the Mediator considered, after an inquiry, that the complaints were justified, he handed down a recommendation designed to resolve the difficulty.

69. Article 3 of Act No. 91-14 of 11 February 1991 specified that the Mediator was appointed by decree for a non-renewable term of six years. He could not be prosecuted, arrested or detained for the views he expressed or for acts performed in exercise of his functions. In carrying out his duties, he received no instructions from any authority. Moreover, he could not be elected during his term of office or for a period of six months following the cessation of his functions. He was empowered to request any competent

authority to institute disciplinary proceedings against any agent responsible for a serious breach of his professional obligations. If no action was taken on his request, he could refer the matter directly to the President of the Republic. To associate the entire Senegalese people in the evaluation of the results obtained, the Mediator published a report every year.

70. The High Council on Radio and Television Broadcasting had been given the task of protecting and promoting political rights with a view to ensuring the free access of political parties to the State media and encouraging political pluralism in public radio and television. The Council was composed of six members chosen in the audio-visual, cultural and legal field for a period of three years. The ongoing task was that of an arbiter called upon to decide on all claims and complaints and to hand down rulings that could be executed directly. Its decisions could be the subject of recourse for abuse of power. In that case, the Supreme Court ruled within 72 hours and, if a decision had been annulled, the finding was broadcast during the following weekly programme.

71. With regard to document E/CN.4/1992/43, the international meeting in Paris had drafted a set of principles concerning the status of commissions and their advisory role which his delegation considered to be a good basis for the establishment of national institutions for the promotion and protection of human rights. The meeting had made it possible for representatives of NGOs, regional institutions, human rights organizations, jurists, mediators and ombudsmen to exchange their experiences with a view to improving the exercise of human rights. There was no doubt that the Paris meeting had made it possible to determine ways to etablish machinery for the evaluation of methods designed to develop respect for universally recognized human rights standards.

72. Mr. BARKER (Australia) said that the international community had come increasingly to the position that action in support of the full and universal enjoyment of human rights was an appropriate activity for the United Nations. That was underlined by the willingness of almost all States which were the subject of country-specific action by the Commission to cooperate with its Special Rapporteurs or Representatives. The acceptance that human rights were not solely a matter of domestic jurisdiction was further underlined by the widespread cooperation of States with the Commission's thematic mechanisms, the willingness of States to undertake international obligations through the human rights treaty system and their presence in the Commission to discuss their own human rights performance and that of other States.

73. Those who had questioned the universality of human rights generally argued that different cultural and historical traditions meant that conceptions of human rights differed from country to country and from region to region. Cultural differences were evident in matters of family life, religion, and personal and social relations. The proponents of cultural relativity did not argue that their cultures permitted such activities such as torture, executions, unlawful detention and disappearances. His delegation agreed that efforts should be made to seek common ground while reserving differences, so long as there was an impartial debate and a sincere attempt to minimize rather than exaggerate differences.

74. It was primarily at the national level that human rights could be made a reality. Commitments at the international level, however conscientiously entered into, had limited effect without efficient measures for national implementation.

75. His Government strongly supported the increased attention being given by the General Assembly and the Commission to national institutions. It had taken an active part in the meeting on national institutions held in Paris in October 1991 and looked forward to the implementation of its recommendations.

76. Australia's national human rights legislation was based solidly on United Nations instruments. Central to that legislation was Australia's National Commission, the Human Rights and Equal Opportunities Commission, which had very broad functions. It had the power to investigate individual complaints and, where possible, to settle them by conciliation. It could conduct inquiries into human rights issues, either on a national or local basis. It also had wide functions of promotion and education and review of legislation and policy.

77. In addition to human rights problems, the Commission on Human Rights should address the broader question of establishing and strengthening the institutions of civil society, without which the rule of law was eroded and individuals' rights were not guaranteed. The Commission already addressed some of the important aspects of that task: ensuring an independent judiciary; training police and judicial officials to observe basic norms of human rights so that the law was upheld for all without discrimination on the basis of race, sex or wealth; incorporating human rights education in the curricula of primary and secondary schools; and promoting the broadest possible dissemination of information on human rights.

78. While Australia was part of the Western Europe and others group, its economic and security focus was on its own region, that of Asia and the Pacific. Australia had participated in the Asia/Pacific Workshop on Human Rights in Manila in May 1990 and in the Pacific Workshop on Human Rights in Rarotonga, Cook Islands, in November 1990. It recognized that the political, religious and cultural diversity of the Asia/Pacific region presented special challenges for the development of regional arrangements. By definition, however, that diversity was no greater than that represented within the Commission and should not preclude effective regional machinery. Australia had been a regular supporter in the Commission of the resolution on regional arrangements in the Asia and Pacific region. It welcomed the Secretary-General's support on the subject (E/CN.4/1992/24), in particular the information on the range of human rights activities which had taken place in the region under United Nations auspices.

79. Another important regional event was the regional meeting that was to be held in Bangkok in August 1992 in preparation for the 1993 World Conference on Human Rights and which would be the first such regional meeting on the subject.

80. In the past 18 months, the General Assembly and the Commission had adopted resolutions on the principles of non-selectivity, objectivity and impartiality. His Government had long believed that human rights concerns should not be misused for political ends. However, that did not mean that

the United Nations or the Commission should shrink from speaking up when faced with serious human rights violations. Indeed, as stated in the General Assembly resolution on the topic, it was the responsibility of the United Nations to be vigilant about human rights abuses wherever they occurred. The principles of non-selectivity, objectivity and impartiality only made sense in considering how that responsibility was to be pursued. The General Assembly had taken up the appalling violations during the Iraqi occupation of Kuwait, had begun monitoring the situation in Iraq, and had drawn attention to the continuing repression in Myanmar, which showed that the overwhelming majority of Member States did not intend to ignore that responsibility. No region should be considered exempt from the scrutiny of human rights problems. His delegation suggested that all members of the Commission should attend its annual sessions prepared to inform the Commission frankly and fully of their own human rights problems and how their own Governments had responded to them.

81. If members were to be true to the principles of objectivity and impartiality, then all Governments must be willing to extend their cooperation to the United Nations in its efforts to verify reports. His Government noted that the Special Representative on Cuba had taken up that point, in commenting that the lack of response from the Government of Cuba to his inquiries had made it difficult to arrive at an objective and impartial conclusion. Unfortunately, that example was by no means unique.

82. The capacity for impartial investigation already existed as a result of the Commission's work over many years. Members should find means of improving the United Nations response time so that Governments had reliable information, including the point of view of Governments of those countries where such incidents had occurred. His delegation therefore welcomed the initiative of the Austrian Government at the current session.

83. In order to assist internally displaced persons, who faced serious human rights problems, the international community must consider the need to provide humanitarian assistance of all kinds. The world situation had changed greatly since the elaboration of the major instruments concerning refugees. If the Commission was to examine issues of the internally displaced - the causes of such displacement and issues of relief - its consideration should not be limited merely by the circumstance of which side of the border affected persons happened to be on, although that was clearly a crucial factor when discussing the existing legal regime and the applicability of relevant human rights instruments. People could and did cross borders, and the Commission needed to be able to consider the issues in a suitably broad context.

84. With regard to the Commission's future agenda, his delegation believed that it would be appropriate to bring together issues relating to mass movements of people, in order to ensure greater coherence in that area of the Commission's work.

85. Ms. LIMJUCO (Philippines), speaking in exercise of the right of reply, said, with regard to the remarks of the representative of the International Federation of Human Rights concerning internal refugees in the Philippines in the context of military operations against the insurgents, that it was not her Government's policy to subordinate respect for human rights to the crushing

of the insurgency movement. She recognized that there had been violations of human rights as a result of military operations and that mistakes had been made. However, some organizations failed to see that violations could be laid at the door of both sides to the conflict. In the interest of fairness and accuracy, condemnation should be borne by both sides.

86. Her Government had tried unceasingly to find ways to achieve a peaceful solution to the insurgency problem. It had therefore established a peace commission to study proposals which emphasized the counter-insurgency policy in the peace process through confidence-building and conflict-abatement measures. The concept of civil defence was being developed through approaches based on economic security and popular participation rather than armed violence.

87. It should also be mentioned that internal refugees in her country were not only those displaced by armed conflict. There were many more who had been displaced by the natural calamities that had visited her country recently, such as an earthquake which had registered 8.2 on the Richter scale and destroyed heavily populated areas in two provinces, typhoons, and the volcanic eruption that had devastated a great part of the central plain of Luzon.

88. Her Government was doing its utmost to deal with the situation of the thousands of people displaced by those natural disasters but there was only so much that it could do for so many, at least immediately.

89. Mrs. RODRIGUEZ (Observer for Guatemala), speaking in exercise of the right of reply, said that, owing to distortions and false interpretations concerning official documents of the Commission, her delegation was obliged to request that, in a spirit of cordiality and reconciliation, members should endeavour to ensure that sectarian political considerations were not injected into the Committee's deliberations, as a non-governmental organization had tried to do at the current meeting in referring to her country.

The meeting rose at 8.55 p.m.